

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>JRL-3995-50 Confirmation No. 7820</b>	
	Application Number	Filed	
	10/584,861	June 28, 2006	
	First Named Inventor SKOG		
	Art Unit 4173	Examiner Cattungal, Ajay P.	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.



Signature

John R. Lastova

Typed or printed name

703-816-4025

Requester's telephone number

September 16, 2010

Date

I am the

- Applicant/Inventor
- Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)
- Attorney or agent of record 33,149  
(Reg. No.)
- Attorney or agent acting under 37CFR 1.34.  
Registration number if acting under 37 C.F.R. § 1,34 \_\_\_\_\_

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.\*

- \*Total of 1 form/s are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

SKOG et al

Appl. No. 10/584,861

Filed: June 28, 2006



Atty. Ref.: 3995-50; Confirmation No. 8029

TC/A.U. 4173

Examiner: Cattungal, Ajay P.

For: METHOD AND COMMUNICATION SYSTEM FOR AUTOMATICALLY  
DISCOVERING THE COMMON MULTIMEDIA SERVICE CAPABILITY

\* \* \* \* \*

September 16, 2010

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The Examiner rejects claims 1, 8, 9, 16, 17, 18, and 24 for obviousness based on Ahuja in view of Roy. There are clear errors with this rejection.

Claim 1 recites in part: “responding to said user terminals with information regarding matching multimedia capabilities and alerting users of the user terminals of a possibility to start a packet-switched shared multimedia service session only if at least one common multimedia service capability is found for the user terminals; wherein said notifying, analyzing, and responding steps are performed prior to the packet-switched shared multimedia service session being initiated, and initiating the shared multimedia service session only if at least one common multimedia service capability is found for the user terminals.”

Ahuja teaches a multimedia telecommunication system that supports simultaneous voice and multimedia communication using virtual meeting services (VMS). Although Ahuja describes the network automatically identifying the multimedia capabilities of the calling party

and the called party in response to a call initiated by the calling party, (col. 13, lines 62-65), Ahuja moves the multimedia call forward even if there is a mismatch in the media communications capabilities of those parties or incompatibility between the communications equipment of the calling party and the called party. Col. 14, lines 11-25. “The network will appropriately configure interface equipment to permit parties having these incompatibilities to communicate with one another in selected media,” col. 14, lines 25-28.

Roy teaches providing multimedia conferencing services so that each user device in the multimedia conference can selectively receive information services during the conference. Roy assumes that all the user devices have the necessary multimedia conferencing capabilities. See [0047]. A multimedia bridge controller 201 sends a start-up request to the destination multimedia devices 106 and 112 in the form of “any graphic, video or audio prompt.” See [0049]. Once those devices accept the request, the multimedia conference commences. See [0050].

**Clear Error #1: The Combination of Ahuja and Roy Fails to Teach “alerting users of the user terminals of a possibility to start a packet-switched shared multimedia service session only if at least one common multimedia service capability is found for the user terminals” Recited in Claim 1**

The Examiner admits that Ahuja lacks alerting user of a possibility to start a multimedia session, the Examiner points to [0049-0050] in Roy for this feature and argues that using this feature from Roy in Ahuja would provide “convenient, efficient and flexible multimedia telephone service.” But Roy just describes that the multimedia bridge 114 forwards a start-up request to the two user devices 106 and 112 after having received a start-up message from the first user device 100. Roy does not determine whether any common multimedia service capability exists before the users are alerted of the possibility to start a service session. Instead, a start-up request is always forwarded to the other users whenever a start-up message has been

received from a first user. Roy assumes that all the user devices 100, 106, and 112 are capable of participating in the multimedia conference.

In contrast, in claim 1, the users are alerted of the possibility to start a multimedia service session only if it has been established that matching multimedia service capabilities do exist so that it is actually possible to start a multimedia session between the users. Thus, even if Ahuja and Roy could be combined as the Examiner proposes, their combined teachings still fail to disclose or suggest: “alerting users of the user terminals of a possibility to start a packet-switched shared multimedia service session only if at least one common multimedia service capability is found for the user terminals,” as recited in claim 1.

**Clear Error #2: The Combination of Ahuja and Roy Fails to Teach “initiating the shared multimedia service session only if at least one common multimedia service capability is found for the user terminals” or the “Wherein Clause” Recited in Claim 1**

The claim language “initiating the shared multimedia service session only if at least one common multimedia service capability is found for the user terminals” means that a determination is made whether it is possible to start a multimedia service session. In contrast, Ahuja describes how to make an attempt to start a multimedia service session. Indeed, the Examiner overlooks a fundamental difference in Ahuja where Ahuja starts by “Multimedia connections between those workstations 156 and 158 are automatically set up in response to simply dialing the regular directory number of the workstation 158 by the user of workstation 156 on the telephone 166.” Col. 14, lines 51-54. If there is no party to the call that is a virtual meeting services (VMS) subscriber, then a regular telephone call proceeds as shown in step 292 in Figure 13. Even if only one party is a VMS subscriber, Ahuja describes: “If it is determined, in block 298, that only the calling party is a VMS subscriber, then multiple media connections are set up only for the calling party in block 302. These multiple media connections are set up in

case a VMS subscriber is added to the conference between the VMS subscriber using workstation 156 and the nonVMS subscriber using workstation 158.” Col. 15, lines 28-34. Thus, contrary to what is claimed, Ahuja sets up multimedia connections even though only the calling party is a multimedia-capable device. But this setting up of multiple media connections “just-in-case” *teaches away* from what is claimed where the shared multimedia service session is only initiated if at least one common multimedia service capability is found for the user terminals. “A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). Ahuja discourages one of ordinary skill in the art from this claimed conditional setting up of a multimedia session and therefore teaches away.

In Roy, the multimedia session automatically goes forward because all of the user devices are assumed to be multimedia capable. Accordingly, Roy fails to overcome this fundamental deficiency in Ahuja.

Because a packet-switched multimedia service session is not initiated in claim 1 unless it is determined that it is possible to establish such a multimedia service session, the method of claim 1 conserves communications resources compared to Ahuja and Roy in which an attempt to establish a multimedia service session is always made.

Claim 1 further recites “wherein said notifying, analyzing, and responding steps are performed prior to the packet-switched shared multimedia service session being initiated.” This additional claim feature is also missing from Ahuja and Roy for the reasons explained above.

The Examiner argues in the final action that Ahuja’s network “only appropriately configures the interface equipments only when there are incompatibilities,” citing to col. 14, lines 19-26. The inclusion of the word “only” by the Examiner is strained and misleading.

Moreover, Ahuja addresses computer incompatibilities separately from and after determining whether there is a mismatch in media capabilities in the user devices. It is improper to ignore the clear teachings that already exist in Ahuja regarding multimedia capabilities.

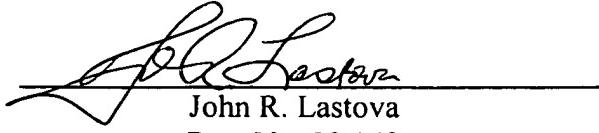
Thus, there are multiple clear errors in the rejection of claim 1. Although claims 9 and 18 are of differing scope from claim 1, the rejection of claims 9 and 18 also contains legal and factual errors for at least analogous reasons. Withdrawal of the primary rejection is requested.

**Clear Error #3: The Rejection of the Dependent Claims Is Improper**

Various dependent claims stand rejected as being unpatentable over Ahuja and Roy in view of Aholainen or Vaananan. These rejections are traversed because neither Aholainen nor Vaananan overcome the deficiencies noted above for Ahuja combined with Roy. Moreover, the addition of a third reference is further evidence of nonobviousness. The rejection based on Vaananan is particularly unfounded since the text in col. 5 referred to by the Examiner relates to forwarding an advertising message to a GSM terminal and has nothing to do with “alerting the user of the possibility to start a multimedia service session,” as recited in claims 6, 14, and 22. As for claims 7, 15, and 23, Vaananan does not teach at col. 5, lines 19-24 that “the user terminals will not start a packet switched session until said message [for alerting the user of the possibility to start a multimedia service session] has been received by the two user terminals.”

Respectfully submitted,  
**NIXON & VANDERHYE P.C.**

By:



John R. Lastova  
Reg. No. 33,149

Nixon & Vanderhye PC  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000